

\$170

PTO/SB/21 (09-04)

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number 10/672,668
Filing Date 09/26/2003
First Named Inventor A. Satyanarayan Naidu et al.
Art Unit 1651
Examiner Name Ware, Deborah K.
Attorney Docket Number 51309-00001

ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input checked="" type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): 1. Statement of Applicant's Agent of record Regarding Availability of Deposit Pursuant to the Budapest Treaty; and 2. Postage paid postcard.
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Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Preston Gates & Ellis LLP		
Signature	<i>Michelle S. Glasky</i>		
Printed name	Michelle S. Glasky, Ph.D.		
Date	3/21/06	Reg. No.	54,124

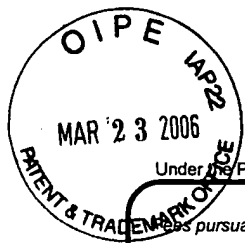
CERTIFICATE OF TRANSMISSION/MAILING

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Signature	Maria Nadal		
Typed or printed name	Maria Nadal	Date	3/21/06

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL

For FY 2006

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)
65.00

Complete if Known

Application Number	10/672,668
Filing Date	09/26/2003
First Named Inventor	A. S. Naidu
Examiner Name	Ware, Deborah K.
Art Unit	1651
Attorney Docket No.	51309-00001

METHOD OF PAYMENT (check all that apply)

- ☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____
- ☒ Deposit Account Deposit Account Number: 50-3207 Deposit Account Name: Preston Gates Ellis LLP
- For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)
- ☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee
- ☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

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FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180
Total Claims	Extra Claims	Fee (\$)
- 20 or HP = _____ x _____ = _____		
HP = highest number of total claims paid for, if greater than 20.		
Indep. Claims	Extra Claims	Fee (\$)
- 3 or HP = _____ x _____ = _____		
HP = highest number of independent claims paid for, if greater than 3.		

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 = _____	/ 50 = _____	(round up to a whole number) x _____		

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount) Fees Paid (\$)

Other (e.g., late filing surcharge): Terminal Disclaimer fee under 37 CFR 1.20(d) 65.00

SUBMITTED BY		
Signature	<u>Michelle S. Glasky</u>	Registration No. 54,124 (Attorney/Agent)
Name (Print/Type)	Michelle S. Glasky, Ph.D.	Telephone 949-253-0900
		Date <u>3/21/06</u>

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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DECEMBER 09, 2004

PTAS

PRESTON GATES & ELLIS, LLP
LOUIS C. CULLMAN, ESQ.
1900 MAIN STREET, SUITE 600
IRVINE, CA 92614-7319

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

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PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 12/06/2004

REEL/FRAME: 015427/0787
NUMBER OF PAGES: 4

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

NAIDU, A. SATYANARAYAN

DOC DATE: 09/25/2003

ASSIGNEE:

PROBIOHEALTH, LLC
350 S. BEVERLY DRIVE
BEVERLY HILLS, CALIFORNIA

SERIAL NUMBER: 10672668

FILING DATE: 09/26/2003

PATENT NUMBER:

ISSUE DATE:

TITLE: PREBIOTIC AND PRESERVATIVE USES OF OIL-EMULSIFIED PROBIOTIC
ENCAPSULATIONS

A S S I G N M E N T

WHEREAS, We, A. Satyanarayan Naidu and Bing Baksh, the ASSIGNORS herein, have invented PREBIOTIC AND PRESERVATIVE USES OF OIL-EMULSIFIED PROBIOTIC ENCAPSULATIONS, for which we are about to file an application for Letters Patent of the United States, which application has been executed by us concurrently herewith this day and year and of which inventions and improvements we are the sole owners; and

WHEREAS, Probiohealth, LLC, a corporation organized and existing under the laws of the State of Delaware, having a place of business at 350 S. Beverly Drive, Beverly Hills, California, the ASSIGNEE herein, desires to acquire the entire right, title and interest in and to said invention, application and Letters Patent to be granted and issued thereon;

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00) by the ASSIGNEE to us paid, and other valuable consideration, the receipt and legal sufficiency all of which is hereby acknowledged, we, the said ASSIGNORS, have sold and do hereby sell, assign, transfer and set over unto said ASSIGNEE, its successors and assigns, the entire right, title and interest in and to said invention for Letters Patent thereon, not only for, to and in the United States of America, its territories and possessions, but for, to and in all countries foreign thereto, together with and including all priority rights based upon said application in the United States of America covered by this Assignment.

And for the above-named considerations, we do hereby agree that we will, at the request of said ASSIGNEE, execute any and all applications for Letters Patent for said inventions and any and all other papers and documents and do all other and further lawful acts that said ASSIGNEE may deem necessary or desirable to obtain Letters Patent on said inventions, to secure the grant of such Letters Patent and to perfect and vest in the ASSIGNEE the entire right, title and interest in the invention, application and Letters Patent.

And for the above-named considerations, we do hereby authorize and empower the ASSIGNEE, its successors and assigns, to apply for and obtain, in its or their own names, Letters Patent for the said invention before competent International Authorities and in any and all countries foreign to the United States in which application for Letters Patent can be so made or Letters Patent so obtained.

DATED at Newport Beach, this 25 day of September, 2003

A. Satyanarayan NAIDU
22810 Mountain Laurel Way
Diamond Bar, CA 91765 (USA)

[illegible]

On this _____ day of _____, before me personally appeared A. Satyanarayan Naidu to me known or proved on the basis of satisfactory evidence to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same.

Notary Public

DATED at _____, this _____ day of _____, 2003.

Bing BAKSH
1967 Burgess Circle
Placentia, CA 92870 (USA)

[illegible]

On this ____ day of _____, before me personally appeared Bing Baksh to me known or proved on the basis of satisfactory evidence to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same.

Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

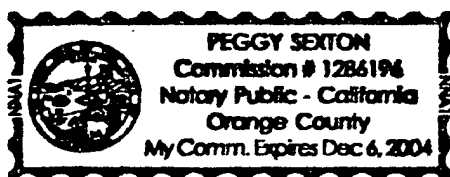
State of California

County of Orange

On Sept. 25, 2003 before me, Peggy Sexton
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared A. Satyanarayan Naidu
NAME(S) OF SIGNER(S)

☐ personally known to me - **OR** - ☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Peggy Sexton
SIGNATURE OF NOTARY

OPTIONAL

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☐ CORPORATE OFFICER

TITLE(S)

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☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
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10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3 AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

en-N-tech, Inc.
Attn: A. Satyanarayan Naidu
981 Corporate Center Drive, #120
Pomona, CA 91768

Deposited on Behalf of: en-N-tech, Inc.

Identification Reference by Depositor:
Lactobacillus casei: KE01

Patent Deposit Designation
PTA-3945

The deposit was accompanied by: ☐ a scientific description ☒ a proposed taxonomic description indicated above.

The deposit was received December 21, 2001 by this International Depository Authority and has been accepted.

AT YOUR REQUEST: ☒ We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested December 28, 2001. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:


Tanya Nunnally, Patent Specialist, Patent Depository

Date: January 8, 2002

cc: Louis C. Cullman
(Ref: Docket or Case No.: 20424.12)



CERTIFICATE OF MAIL

I hereby certify that on 3/21/06, this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Maria Nadal

Maria Nadal

PATENT

Applicant: Naidu et al.

Serial No.: 10/672,668

Filed: 09/26/2003

Title: PREBIOTIC AND
PRESERVATIVE USES OF OIL-
EMULSIFIED PROBIOTIC
ENCAPSULATIONS

Examiner: Unassigned

Group Art Unit: 1651

Atty Docket No.: 51309-00001

Conf. No.: 2633

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**STATEMENT OF APPLICANT'S AGENT OF RECORD REGARDING AVAILABILITY
OF DEPOSIT PURSUANT TO THE BUDAPEST TREATY**

I, Michelle S. Glasky, do hereby declare and say:

1. I am registered to practice before the United States Patent and Trademark Office; my registration number is 54,124.

2. I am the agent of record in the above-identified application and have full authority to represent the owner of the application, ProbioHealth, LLC, on matters before the United States Patent and Trademark Office. A copy of the assignment from inventor A.S. Naidu to ProbioHealth LLC is attached hereto.

3. On information and belief, the biological material disclosed and claimed in this application were deposited by the inventor, A.S. Naidu, with the American Type Culture Collection, 10801 University Boulevard, Manassas, VA 20110-2209 on December 21, 2001 under the following name and accession number to assure availability of the biological materials to the public:

Identification Number by Depositor

Lactobacillus casei KE01

Patent Deposit Designation

PTA-3945

A copy of the International Form "Receipt in the Case of an Original Deposit Issued Pursuant to Rule 7.3 and Viability Statement Issued Pursuant to Rule 10.2" is attached hereto.

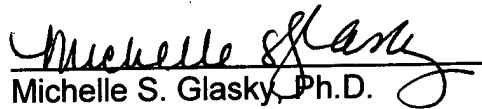
4. On information and belief, the American Type Culture Collection has acquired the status of International Depository Authority within the meaning of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purpose of Patent Procedure.

5. That said biological material has been deposited under conditions which insure that access to the cultures will be available during the pendency of the above-identified patent application to one determined by the Commissioner of Patents and Trademarks to be entitled hereto under 37 C.F.R. §1.14 and 35 U.S.C. §122.

6. That no later than issuance of a patent on the above-identified patent application, the inventor, A.S. Naidu, will irrevocably remove any restrictions as to public availability of the herein-identified biological material, and will replace the same biological material should it become non-viable during the period that extends thirty (30) years from the date of the deposit, or the life of the enforceable patent, or the period of five (5) years after that last public request for the deposit, whichever period is longest.

7. I further declare that all statements made herein of my own knowledge are true and correct and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issuing therefrom.

Dated: 3/21/06


Michelle S. Glasky, Ph.D.
Registration No. 54,124
Agent for Applicant